IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 25TH MAY 2007 / 4TH JYAISHTA 1929

WA.No. 1011 of 2007()

{IN WPC.NO.26049/2006 OF THIS COURT}
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APPELLANTS/RESPONDENTS 2 TO 3:
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1. THE UNIVERSITY OF KERALA,
   REPRESENTED BY THE REGISTRAR, UNIVERSITY OF
   KERALA, PALAYAM, THIRUVANANTHAPURAM.

2. THE CONTROLLER OF EXAMINATIONS,
   UNIVERSITY OF KERALA, THIRUVANANTHAPURAM.

3. THE HONORARY DIRECTOR,
   UNIVERSITY INSTITUTE OF TECHNOLOGY,
   UNIVERSITY OF KERALA, FACULTY HOUSE BUILDING,
   SENATE HOUSE CAMPUS, THIRUVANANTHAPURAM.

BY ADV. SRI.M.RAJAGOPALAN NAIR

RESPONDENT/PETITIONER:

RAJI.P.R., KALEECKAL THEKKATHIL,
ERUMAKUZHY, NOORNAD (PO).

BY ADV.SMT.SHERLYMOL THOMAS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A. No.1011 of 2007

Dated this the 25th day of May, 2007

JUDGMENT

H.L. DATTU, C.J.

This appeal arises out of an order passed by the learned single Judge in WP(C)No.26049 of 2006 dated 20.2.2007.

2. The appellants before us were the respondents in the aforesaid Writ Petition. The respondent was the petitioner. She had filed the Writ Petition inter alia challenging the award of 22 marks in the subject Corporate Tax in the final year B.Com Degree Examination. Taking into consideration the assertions and allegations made in the Writ Petition, this Court had appointed two experts to revalue the petitioner's answer paper in the subject Corporate Tax. After such revaluation, the experts have awarded 24 marks and 26 marks in the aforesaid subject.

3. This Court, taking into consideration the previous performance of the petitioner in all other subjects, has awarded 2.5 more marks in the theory examination in the subject Corporate tax, making it as 27.5 marks. Aggrieved by the said order passed by the learned single Judge, the University is before us in this appeal.

4. Learned counsel appearing for the appellant University would submit that the learned single Judge was not justified in awarding 2.5 more marks over and above the marks awarded by the experts and that the learned single Judge had not followed the scheme for revaluation fixed by the University.

5. At the outset, we want to make it clear that in the normal course, this Court has no power to vary the scheme framed by the University for the purpose

of revaluation of the examination papers. But, at the same time, in order to render substantial justice to the parties, the court may exercise its extraordinary jurisdiction.

6. In the instant case, taking into consideration the fact, that, the petitioner had performed exceedingly well in the earlier years, the court has thought it fit to award 2.5 more marks over and above the marks awarded by the two experts, who had been appointed by this court to revalue the answer paper of the petitioner in the subject Corporate Tax. The order so passed by this court cannot be construed as one passed with misplaced sympathy, but in order to do substantial justice to a student who had performed exceedingly well in all the previous years.

7. In view of the above, we are of the opinion that interference with the discretionary orders passed by this court may not be necessary.

Accordingly, the appeal deserves to be rejected and it is rejected. However, we make it clear that the order passed by the learned single judge need not be treated as a precedent in any other case.

Sd/-
H.L. DATTU,
CHIEF JUSTICE.

Sd/-
K.T. SANKARAN,
JUDGE.

sk/DK.

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P.S. To Judge